

ANDOVER CONSERVATION COMMISSION MEETING MINUTES
APRIL 15, 2104

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:48pm

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Kevin Porter, Commissioner Alix Driscoll, Commissioner Phil Sutherland, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

West Knoll Road

Present in Interest: Jeff Crane

Staff Recommendation: Approve as Pos.2b, Pos.5 and Neg.3

Public Hearing on a Request for Determination of Applicability filed by the Town of Andover under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed water main improvements, water service and fire hydrants at **West Knoll Road**.

Agent Cleary presented this to the Commission. The filing is under the WPA and By-Law. Waivers are being requested for property dimensions; existing and topographical contours; using Town Maps for BVW; tree line; fences; walls and paths; 50 foot no-build and distance from work to BVW. All work will be within existing roadway and is linear in nature. Catch basins and drainage systems will be protected and there will be no stockpiling on site. Commissioner Honea made a Motion to approve the waiver requests; it was seconded by Commissioner Driscoll and unanimously approved.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to approve as Pos.2b, Pos.5 and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

15 County Road

Present in Interest: Bill MacLeod; Kim Fudge

Staff Recommendation: Continue

Public Hearing on a Notice of Intent filed by **South Andover Development, LLC** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed demolition and construction of a new single family dwelling with driveway, grading and utilities within the Riverfront at **15 County Road**.

Agent Cleary presented this to the Commission. The filing is under the WPA and By-Law as this is a teardown of an existing dwelling and construction of a new home. The project is under review by DEP. The ZBA denied the Applicant's request for an addition and is requiring a new house further from the road. Waivers will be required for construction of a deck instead of the proposed patio less than 50 feet from the BVW and not meeting the 25 foot no-disturb setback in the areas of Flags 31A and 32A. The 100 foot inner riparian is now existing lawn with a structure. There are no offsets from the Riverfront and/or BVW across the street depicted on the plan. The existing lawn should be removed from calculations as lawn is not absent of topsoil and considered disturbed. If the Applicant is considering this area to be previously disturbed Riverfront, then existing conditions must be improved. Deforestation to construct a new dwelling is not considered an improvement. 10% of the lot OR 5,000 square feet, whichever is greater, may be disturbed for this project. The side setback is 15 feet to the wooded area. Staff recommends a good alternatives analysis be provided and a site visit be conducted.

Bill MacLeod presented the project to the Commission. The new house will be outside the 50 foot no-build, there will be a deck on the back with crushed stone underneath. The deck does not meet the setback requirement, but is a better option than the patio because it is impervious. However, the patio does meet both the riverfront and setback requirements. The 100 foot inner riparian will be allowed to naturalize. Disturbance will be kept to a minimum. The improvement to the lot is allowing the inner 100 riparian to naturalize and the disturbance is well below the 5,000 square feet allowed.

There is a current Order of Conditions issued for this site for construction of a driveway and infiltration trench. An Applicant cannot have two open applications concurrently. Bill MacLeod informed the Commission that a Certificate of Compliance will be requested for this Order of Conditions.

Chairman Cooper agreed that a site visit should be scheduled for the Commission.

Commissioner Porter would like there to be a no disturb marker placed near Flag 31A moved to 25 feet and the calculations redone as staff recommended.

Commissioner Driscoll was concerned with the steep slope towards the river being cleared. She also asked if the deck could be moved to the north side of the house as not to encroach the 50 foot no-build.

Kim Fudge, an abutter, voiced her concern with the drastic changes in the neighborhood and how the size of the homes being built will change the runoff to her property.

Agent Cleary will schedule the site visit with the Commissioners and Mr. MacLeod.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to continue to May 20, 2014; it was seconded by Commissioner Greenwood and unanimously approved.

85 Porter Road

Present in Interest: John Dick, Brian Charron and Ronna Markell

Staff Recommendation: Continue.

Continued Public Hearing on a Notice of Intent filed by **Brian Charron** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed reconstruction of an existing dwelling and removal of existing pool at **85 Porter Road**.

Mr. Douglas presented this to the Commission. This project was continued from March 18, 2014 for revised plans and a revised Notice of Intent for the work actually done on the property. We have received revised plans reconfiguring the house location. However, while conducting a site visit, staff viewed a ponded wetland immediately adjacent to the wetland which contained wood frogs. This is a certifiable vernal pool, not a certified vernal pool. This finding significantly changes the setbacks for this project. The project does not meet the 100 foot setback for a building for a vernal pool. The applicant has requested a waiver of this setback.

John Dick presented the revised plan to the Commission. The revised plan moves the house outside the 50 foot no-build setback, it is 51 feet from both wetlands. However, with the discovery of the vernal pool, 85% of the proposed house is within the 100 foot setback. The existing driveway remains within 25 foot setback.

Commissioner Sutherland preferred the existing foundation placement and improvement of that dwelling rather than a new dwelling. The construction of a new dwelling and foundation mandates compliance with the vernal pool setbacks. He is not comfortable setting that precedence.

Commissioner Porter stated that the previously disturbed area has not affected the vernal pool to date. He also asked for additional time to review the plans provided at the meeting.

Commissioner Honea suggested further protection of the vernal pool by forbidding the use of fertilizer and pesticides on the lawn.

Commissioner Greenwood agreed that this would be setting a dangerous precedent to allow new construction with the benefits of an existing foundation. He believes the best option is the original plan provided with the removal of the additional garage space.

The Commission asked the Applicant to return with the original footprint plan with a smaller garage.

Commissioner Greenwood made a Motion to find the ponded area next to the wetland to be a certifiable vernal pool; it was seconded by Commissioner Driscoll and unanimously approved.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to May 20, 2014; it was seconded by Commissioner Driscoll and unanimously approved.

87 Porter Road

Present in Interest: John Dick, Brian Charron and Ronna Markell

Staff Recommendation: Accept project presented and close public hearing.

Continued Public Hearing on a Notice of Intent filed by **Brian Charron** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of an addition at **87 Porter Road**.

Mr. Douglas presented this to the Commission. This was continued from March 18, 2014 for receipt of revised plans and revised Notice of Intent. Staff has received the revised plans and Notice of Intent which has reconfigured the deck and stairway to reduce the size. Significant mitigation of 2,245 square feet will be naturalized. At staff request, the applicant placed a 75 foot buffer on the plan when in fact it should have been a 100 foot buffer due to the discovery of the vernal pool. The project is no closer to the vernal pool and the vernal pool has established itself with the house in place.

John Dick presented the project to the Commission. The 75 foot buffer clips the corner of the garage. There is an existing two foot high driveway between the vernal pool and the garage. The house is taller with the same footprint. The deck has been reduced to 90 square feet still within the no-build area to service the two existing doorways. The applicant is mitigating 2,245 square feet on the other side of the intermittent stream in exchange for the 90 square feet of deck within the no-build zone. 33% of this house falls within the 100 foot setback of the vernal pool, but the footprint of the existing house has not affected the vernal pool.

Commissioner Honea, if the waivers are granted, would like to link the waiver for the 100 foot setback to the vernal pool being in existence for decades with the house and lawn within 100 feet; the house is within a different watershed and the mitigation being proposed. The waiver for the deck, if granted, is placed such that 2 existing entrances can be used for access to the dwelling.

Commissioner Greenwood stated that it appears that there are no consequences for building an unapproved project.

Ronna Markell, 60 Chestnut Street, expressed her concern with the approval of the deck, and who would be building the deck. She asked that the hearing be kept open to allow her to provide further information regarding the deck.

Commissioner Driscoll asked that the setbacks for the vernal pools be met for the protection of the habitat.

Commissioner Greenwood would like a revised plan with the correct vernal pool buffers and to keep the hearing open to hear from the abutter (Ronna Markell).

The Commission would like the 100 foot buffer on the plan; review the new information provided tonight; and hear what the abutter (Ronna Markell) has to add. It was asked that all information be provided no later than May 6, 2014 for disbursement to the Commission.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to May 20, 2014; it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

16 Off Webster Street (aka 26 Webster Street)

Staff Recommendation: Approve

Request for finding of significance to enlarge the driveway by 4 feet further away from the BVW.

Vice Chairman Walsh made a Motion to find the change not significant; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of minutes from April 1, 2104.

3 Glenwood Road

Issuance of a Satisfactory Completion of Work Certificate

Commissioner Driscoll made a Motion to Approve the Consent Agenda; it was seconded by Vice Chairman Walsh and unanimously approved.

LATE/DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

Land Management

Commissioner Porter provided an update on the Forester and the Land Management Report.

Inspection Fee Schedule

Vote to approve revised Inspectional Fee Schedule.

Due to a change in the procurement laws, the Town can now collect the entire fee for site monitoring upfront instead of increments.

Commissioner Driscoll made a Motion to adopt the updated Inspectional Fee Schedule; it was seconded by Commissioner Honea and unanimously approved.

River Road (Near Pheasant Run)

Ratification of Emergency Certification for a blocked culvert on River Road near Pheasant Run.
Vice Chairman Walsh recused himself from the vote.

Commissioner Driscoll made a Motion to Ratify the Emergency Certification; it was seconded by Commissioner Honea and unanimously approved.

29 Boutwell Road Water Loop

Authorize LEC Environmental Consultants, Inc., to work as site monitor on water loop project.

Vice Chairman Walsh made a Motion to find no conflict; it was seconded by Commissioner Driscoll and unanimously approved.

The next meeting will be held April 29, 2014 at 7:45pm.

The meeting was adjourned at 10:05 pm by Motion of Commissioner Driscoll and seconded by Commissioner Sutherland and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**